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10/801,425

03/16/2004

Jeremy G. Dunne

LTI0043

2057

25235 7590 07/15/2008  
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EXAMINER

SAGER, MARK ALAN

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                          |                                      |                                     |  |
|--------------------------|--------------------------------------|-------------------------------------|--|
| <b>Interview Summary</b> | <b>Application No.</b><br>10/801,425 | <b>Applicant(s)</b><br>DUNNE ET AL. |  |
|                          | <b>Examiner</b><br>M. Sager          | <b>Art Unit</b><br>3714             |  |

All participants (applicant, applicant's representative, PTO personnel):

(1) M. Sager. (3)\_\_\_\_\_.

(2) Scott Hawranek, 52411. (4)\_\_\_\_\_.

Date of Interview: 10 July 2008.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1-25, especially 1 and 25.

Identification of prior art discussed: Zeiner-Gundersen, Jenkins, Johnstone, Mauritz, Harris, Hines, and Wilens.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/M. Sager/  
Primary Examiner, Art Unit 3714

Examiner Note: You must sign this form unless it is an  
Attachment to a signed Office action.

Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Counsel requested after final interview to discuss topics stated in request received July 3, 2008. With respect to topic A and D, so as to provide clarity of holdings in paragraph 5 and 6 in final office action that was noted in discussion on 7/3/08 in request for interview, the respective holdings include an inadvertent transposition of reference groupings with respect to Harris or Hines being out of order with grouping of Johnstone or Mauritz. To be clear on record, for paragraph 5 should be read as claims 8-9 are rejected under 103(a) as being unpatentable over Zeiner-Gundersen in view of either Johnstone or Mauritz, and further in view of Harris or Hines, as applied to claim 1, above, and further in view of either Jenkins or Jones; while, to be clear on record for paragraph 6 should be read as claims 6-7 are rejected under 103(a) as being unpatentable over Jenkins in view of either Johnstone or Mauritz, and further in view of either Harris or Hines as applied to claim 1 above, and further in view of either Zeiner-Gundersen or Wilens. The switching of grouping of references was inadvertent; however, when the flow from first office action is considered with amended language of 'laser rangefinder' added in reply rec'd Nov 29, 2007 causing the consideration of Harris or Hines to the holdings, the progression of record is believed to provide clarity to the holding in final action. With regards to topic B (consideration of KSR), that Supreme Court decision provided further guidance in consideration of obviousness of an invention that the examiner has applied. However, the examiner reiterated for clarity in this case that the Office maintains that it would have been obvious to a person of ordinary skill in the art (POSITA) at a time prior to the invention to substitute the method a laser rangefinder to replace mil-radian technology process taught by either Zeiner-Gundersen or Jenkins each in view of either Johnstone or Mauritz as applied to claim 25 and further in view of either Harris or Hines for the predictable result of input of range to target. The improvement for use of laser rangefinder over mil-radian process is implicit in the accuracy of the technology and this accuracy is admitted by Applicant in paper rec'd May 21, 2008 on page 6, lines 6-7. Regarding topic C (the inherency of a data store associated with instrument and user input for 'maintaining at least one golf club type and at least one user range as a correlated data set'), the examiner noted that the timing of Applicants assertion regarding the data store as claimed not being inherent in '672 in that the first action made presented this but no remark was presented either in paper rec'd Nov 29, 2007 or May 21, 2008. However, the examiner notes that the Office maintains that to a POSITA when considering '672 as a whole would understand that the microprocessor ref 20 of '672 reference implicitly includes a data store such as RAM or ROM or other to cache data or store program to perform functionality disclosed by '672 that includes a data store associated with instrument and user input for 'maintaining at least one golf club type and at least one user range as a correlated data set' (2:46-51, 4:66-5:7) to provide user with club/shot suggestion based on play history. Johnstone and Mauritz provides further evidence for providing club selection based on user performance. Applicants admission stated in prior response rec'd Nov 29, 2007 on page 8, lines 15-28 was reiterated, as also stated in final. Counsel suggested that Applicant may appeal or file a RCE with affidavit with secondary consideration of non-obviousness. The examiner stated that any filed response will be considered based on its content addressing merits and timing of reply.